

CARLSMITH BALL LLP

DAVID LEDGER
ELYZE J. MCDONALD
Bank of Hawaii Bldg., Suite 401
134 West Soledad Avenue, P.O. Box BF
Hagåtña, Guam 96932-5027
Tel No. 671.472.6813

Attorneys for Plaintiff
Americopters, L.L.C.

FILED
DISTRICT COURT OF GUAM
MAY 16 2007
MARY L.M. MORAN
CLERK OF COURT

IN THE DISTRICT COURT OF GUAM

AMERICOPTERS, L.L.C.,

Plaintiff,

vs.

FEDERAL AVIATION ADMINISTRATION,

Defendant.

CIVIL CASE NO. CV03-00005

**PLAINTIFF'S REQUEST FOR
TEMPORARY RECALL OF LETTER
OF TRANSFER FILED MAY 15, 2007;
DECLARATION OF SERVICE**

On May 11, 2007, the Court filed its Order granting the FAA's Motion to Transfer. On May 15, 2007, the Court issued a letter to the United States Court of Federal Claims to initiate the transfer. While Plaintiff Americopters LLC appreciates this Court's timely decision and commencement of the transfer, which may eventually provide Americopters with long sought-after adjudication of the merits of its claim, it would appear that the transfer has been commenced too soon.

The Order transferring this action to the Court of Federal Claims is an interlocutory order governed by 28 U.S.C. Section 1292(d)(4)(A) & (B). Subsection (d)(4)(A) provides that the Order of transfer, though interlocutory, may be appealed as a matter of right to the United States Court of Appeals for the Federal Circuit. Americopters is now evaluating such an appeal.

Subsection (d)(4)(B) provides the timeframe the District Court is required to follow in transferring the action to the Court of Claims:

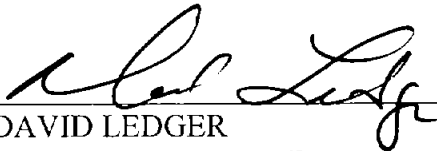
When a motion to transfer an action to the Court of Federal Claims is filed in a district court, no further proceedings shall be taken in the district court *until 60 days after the court has ruled upon the motion*. If an appeal is taken from the district court's grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. *However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Court of Claims pursuant to the motion shall be carried out.*

28 U.S.C. Section 1292(d)(4)(B) (emphasis added). Americopters interprets Section 1292(d)(4)(B) as meaning that the transfer of this action to the Court of Claims may not occur any sooner than sixty (60) days after the Court filed its May 11, 2007 Order granting the Motion to Transfer, or until after any appeal to the Court of Appeals for the Federal Circuit is decided. In other words, Americopters has a minimum sixty (60) days to decide upon a future course of action before the case may be transferred to the Court of Claims.

In the circumstances, Americopters respectfully requests that the May 15, 2007 letter transferring the action to the Court of Claims be recalled and not re-issued until sixty (60) days after the Court decided the motion, that is, sixty (60) days after May 11, 2007.

DATED: Hagåtña, Guam, May 16, 2007.

CARLSMITH BALL LLP




DAVID LEDGER
ELYZE J. MCDONALD
Attorneys for Plaintiff
Americopters, L.L.C.

DECLARATION OF SERVICE

I, David Ledger, hereby declare under penalty of perjury of the laws of the United States, that on May 16, 2007, I will cause to be served, via hand delivery, a true and correct copy of **PLAINTIFF'S REQUEST FOR TEMPORARY RECALL OF LETTER OF TRANSFER FILED MAY 15, 2007; DECLARATION OF SERVICE** upon the following Counsels of record:

Mikel W. Schwab
Assistant U.S. Attorney
OFFICE OF THE UNITED STATES ATTORNEY
DISTRICT OF GUAM AND CNMI
Suite 500, Sirena Plaza
108 Hernan Cortez Avenue
Hagåtña, Guam USA 96910
Attorneys for Plaintiff United States of America

Executed this 16th day of May 2007 at Hagåtña, Guam.



DAVID LEDGER